

## **REMARKS**

This is responsive to the Office Action mailed May 26, 2004 in which the Examiner rejected claims 31, 32, 34 and 37 under §102(b) as being anticipated by Patent No. 5,882,140 to Yodock et al., rejected claims 33, 35, 36, 38, 39, 41 and 42 under §103(a) as being obvious in view of the Yodock et al reference, and, rejected claims 35, 38 and 40 under §103(a) over the combination of Yodock et al and Patent No. 5,030,029 to Johnsen. Claims 43-45 were considered to contain allowable subject matter, but were objected to as being dependent on a rejected base claim. In response, applicants have amended claims 31-33, 36, 37, 39 and 42. Claim 34 has been cancelled.

### **Applicants' Invention**

The present invention is directed to a barrier device having an external reinforcement structure along each side wall. The barrier device is formed with a top wall, bottom wall, opposed end walls and opposed sides wall collectively forming a hollow interior. Each side wall has an inner surface located within the hollow interior and an outer surface spaced from the inner surface. A seat is formed in each side wall which extends from one end wall to the opposite end wall, and from the outer surface of each side wall toward the hollow interior. A beam in the form of a slat, box beam or the like is frictionally retained within the seat in each side wall and has opposite ends which protrude from the end walls where connecting structure is operative to connect the end of a beam or slat carried by one barrier device with an end of the beam or slat mounted to an adjacent barrier device.

Independent claims 31 and 37 have each been amended to clarify that each seat extends from one end wall to the other, and from the outer wall of each side wall toward the hollow interior. Amendments have also been made to claims 32, 33, 36, 39 and 42 to more particularly described the shape of the seat and the barrier reinforcement structure, and, the frictional engagement between the

two.

### **Discussion of Cited Art and Claim Rejections**

The primary reference cited by the Examiner is the applicants' prior patent no. 5,882,140 which discloses a barrier device having one or more pass through holes or channels 72 which extend from one side wall, through the hollow interior of the barrier to the other side wall. In order to assist in securing adjacent barriers together, a continuous strap 74 is extended through the channel 72 of one barrier, wrapped around a portion of its side wall and then inserted into the channel 72 of an adjacent barrier where it is tightened down.

There is no teaching or suggestion in the '140 patent of a seat extending along the length of each side wall, from one end wall to the other, which also extends from the outer surface of each side wall toward the hollow interior of the barrier. The channels 72 in the barriers of the '140 patent are discrete holes, passing completely through the barrier, whose primary purpose is for engaging the tines of a fork lift truck to aid in moving the barriers. The channels 74 do not extend from one end wall to the other end wall. Even if the strap 74 can be considered a "beam" as the Examiner suggests, the strap 74 is a continuous member which is inserted completely through the hole or channel 72 in one barrier into the hole or channel 72 in an adjacent barrier and then tightened down. The '140 patent does not teach or suggest a first beam mounted in a seat formed in one side wall, and then a second beam mounted in a seat in the opposite side wall. Claims 31, 32 and 37 are clearly not anticipated by the '140 patent.

With respect to claims 33, 35, 36, 38, 39, 41 and 42, the '140 patent does not disclose or suggest a "beam" of any particular shape frictionally engaged and retained within a seat which extends from one end wall to the other end wall of the barrier device, and from the outer surface of each side wall toward the hollow interior. The strap 74 is extended between through holes or

channels 72 in adjacent barriers, and rests on the flat, outer surface of the barrier side walls in between the channels 72. The strap 72 is not frictionally retained within a seat in each side wall of a barrier device. Claims 33, 35, 36, 38, 39, 41 and 42 are considered allowable over the '140 reference.

Claims 35 and 38 claim a specific configuration of the barrier reinforcement structure recited in claims 31 and 37, respectively, and claim 40 specifies connecting structure for such slats. Neither the '140 reference nor the Johnsen patent disclose or suggest mounting a rectangular-shaped slat within a seat in the side wall of a barrier. Further, the rails 32 shown in the Johnsen patent are not connected to one another end-to-end, but are received and supported within slots in a pyramid structure 12. For these reasons, and those given above, claims 35, 38 and 40 are considered allowable.

In view of the foregoing amendments to the claims, and the argument given above, applicants consider this case to be in a condition for allowance and respectfully request early notification of same.

Respectfully submitted,

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